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09/805,336	03/13/2001	Kannan Srinivasan	696.003	1923
35195	7590	08/18/2005	EXAMINER	
FERENCE & ASSOCIATES 409 BROAD STREET PITTSBURGH, PA 15143			JANVIER, JEAN D	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/805,336

Applicant(s)

SRINIVASAN ET AL.

Examiner

Jean Janvier

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

Art Unit: 3622

### **Response To Applicant's Amendments**

The Examiner approves the Applicant's amendments to the claims.

### **DETAILED ACTION**

#### ***Specification***

#### **Status of the claims**

Claims 1-17 are currently pending in the Instant Application.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson, US Patent 5, 918, 014 in view of Bibelnieks, US Patent 6, 567,786B1.

(in the present Action, "promotion" is treated as advertisement and vice versa as understood in the art).

Art Unit: 3622

As per claims 1-17, Robinson discloses a system based on the fact that people who have shown a tendency for similar likes and dislikes in the past will show a tendency for such similarities in the future. Those people, continues Robinson, who strongly display such similarities with respect to a particular person ("the subject") are referred to as that person's "community." If the members of a subject's community tend to click on a particular Web ad (interpreted herein as a promotion), then it is likely that the subject will also tend to click on that ad. Robinson further teaches a system that combines techniques for determining the subject's community (for determining which group the subject or user belongs to based on some criteria), and in the end determining which ads (determining an optimal ad that will generate a high click-through rate from users having similar profile as the community or sampled group whose interaction with a web site or the system has been recorded or logged and hence maximizing profits) to show to the user based on characteristics of the subject's community (sampled group or visitors). The information used to determine whether a given individual should be in the subject's community is gleaned from the individual's activities in the interactive medium. Means are provided to track and record a consumer's activities so all the information he generates can be tied together in a database, e.g. by means of "cookies;" or by software running on the consumer's computer, such as an in-line plug-in working in conjunction with the Web browser, or the Web browser itself. The individuals with the greatest calculated similarity become the subject's community (e.g. clusters are formed of groups of very similar consumers are formed). Ads are presented to the subject based on his community, optionally selected based on demographics associated with the community. In short, a plurality of targeted visitors' activities, including ads viewed, to a web site are monitored and based upon these visitors' reactions to one or more

Art Unit: 3622

viewed ads, the one or more ads are then being recommended or displayed to one or more users (being in the same group or cluster as those sampled visitors) having similar profile (configuration data as specified by an advertiser or merchant), such as demographics, as these visitors (See abstract).

Moreover, in the interactive mode or medium on the Internet, the monitoring may comprise previously visited web sites by the targeted visitors, frequency of such visits, items purchased at online stores including their prices (purchase history), entertainment recommendation ratings provided by the visitors, ads read or clicked on by the visitors and the visitors' disinterest in an ad (Col. 2: 32-48).

Robinson further discloses, in one embodiment, that a new ad is displayed randomly or on a fixed schedule to a certain number of users or visitors (sampling visitors). During this "training period" for the new ad, **a certain percentage of the members of the subject's community will click on the new ad**. If this is an unusually high proportion (a percentage better or a threshold number), then there is a relatively high likelihood that the ad will be of relatively high interest to the subject or to one or more similar visitors (the ad will generate more click-throughs from one or more other visitors with similar profile). Here, statistical techniques are used to determine a probability, associated with a fixed confidence level, with which one can assume that a randomly-chosen member of the subject's community (or one or more other users) will tend to click on the ad; this probability is used as the measure of similarity. Once again, a new ad is displayed to certain visitors of the community of surfers (sampling visitors) and the system determines whether a high or low proportion of visitors have indeed read the ad and have chosen to view further information associated with the ad (weighing process or click-through). If

Art Unit: 3622

a high proportion has chosen to view further information related to this ad, then the ad will be presented to similar users having the same profile as the sampled visitors who had originally interacted with the ad (Col. 3: 3-28; col. 3: 61 to col. 4: 14; See claims 1-3, 8 and 17 of the current reference).

Additionally, it is understood that once a user's or subject's community or associated group is known, then targeted ads scheduled to be displayed to the user or subject are determined based on a correlation between the group's profile and the user's profile (according to the advertiser's or merchant's specifications or criteria or received configuration data).

Subsequently, a web site, where the ads will be presented, related to these targeted ads is updated accordingly to reflect the generation of these targeted ads such that the ads can be displayed to the user or subject in a future visit at the web site (associated with at least one generated ad) contingent upon the advertiser's specifications (broadly interpreted to read on displaying the **optimal promotion to the Internet merchant**, which is not clearly defined or supported in the specification).

**The Web ad or advertisement is herein being interpreted as a promotion, as practiced in the art.**

In sum, the system groups or classifies a user or subject into a particular group or cluster based on the user's affinity or similarity with the members of the group (subject's community) as read from the user's recorded activities. Then the system determines which one of the one or more advertisements to present to the subject or user based on the members of the group by displaying a new advertisement for a training period to the members of the group and determining whether a high or low proportion of the members of the group or community have

Art Unit: 3622

actually chosen to view further information regarding the displayed new advertisement. And if so, then the now tested advertisement (new advertisement) is considered or presented to the user or subject (displaying an optimal advertisement or optimal promotion from a plurality of advertisements or promotions to the user after recording the reaction of the members of the group to the display of the one or more advertisements- col. 3: 61 to col. 4: 6).

See fig. 1; Col. 1: 27 to col. 3: 46; col. 7: 47 to col. 8: 20; see claims 1-25 of the present reference.

As per claim 1, Robinson does not expressly teach determining an optimal promotion that optimizes at least one economic variable or value.

However, Bibelnieks discloses a method of and system for increasing the efficiency of customer contact strategies. Customers are analyzed based upon historical criteria. A promotional plan (a group of promotion events implemented or to be implemented over a particular time period) is analyzed to determine the effect of each promotion event on the other promotion events in the promotional plan; and, based on this analysis, the optimal promotion stream (a specific subset of the promotional plan to be sent to customers or a group of similar customers) is determined so as to maximize the ROI of the promotional plan as a whole. Here, the present system focuses on a particular customer or customer group (called a class), and their ROI (Return On Investment) value with respect to an entire set of promotion events proposed to be implemental over a period of time (col. 2: 45-67; col. 4: 66 to col. 5: 67; col. 6: 37 to col. 7: 15).

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention to incorporate the teachings of Bibelnicks into the Robinson 's system so as to select an optimal advertisement or optimal promotion from a plurality of advertisements or promotions to be presented to a user or subject or customer not only based on the user's or subject's community reaction to the display of the one or more advertisements or promotions from the plurality of advertisements or promotions, but also based upon the maximum return on investment or ROI (economic value) associated with the selected advertisement or promotion and the user's ROI value for the selected promotion (or promotional plan or campaign) or the expected revenue for the selected promotion with respect to the user, thereby enabling a merchant or advertiser to control or minimize his liability/risk related to running a promotional plan or promotional campaign comprising a plurality of promotions or a plurality of advertisements by sending to a user or customer an optimal promotion or advertisement, selected from the plurality of promotions or advertisements, that appeals to the user's interest or that is more likely to trigger a purchase, from the user or customer, of an item or service featured in the selected or sent promotion and wherein the customer's purchase will eventually contribute or increase the merchant's bottom line.

### **Response To Applicant's Arguments**

The Applicant's arguments are based on the newly amended independent claim 1 and these arguments are fully addressed in the above Office Action.



Therefore, the Applicant's request for allowance or withdrawal of the last Office Action has been fully considered and respectfully denied in view of the foregoing response since the Applicant's arguments as herein presented are not plausible and thus, the current **Office Action has been made Final.**

### Conclusion

Although the following references were not used in the Office Action, they were highly considered by the Examiner. Applicants are further directed to consult these references.

US Patent 6, 338, 066 to Martin discloses a log of previous web-surfer behavior listing the order in which each surfer downloaded specific items at the web site, and given a meaningful classification of those same items, future surfer behavior is predicted by the present invention. The algorithm utilizes a quantitative model relating items downloaded prior to some specified event to items downloaded after that same event. When the model is applied to a new surfer's session prior to an analogous event, the present invention predicts the likely behavior of the surfer subsequent to that event. The predicted behavior is then further analyzed to derive a quantitative value for the utility of the expected behavior. By randomly selecting sample sessions from a web log, multiple models of surfer behavior can be generated. The multiple models can then be applied to a new surfer's session to produce a predicted behavior/utility distribution and thus a confidence interval for the predicted behavior/utility (See abstract).

US Patent 6, 356,879 to Aggarwal discloses a system for deriving product characterizations for products offered at an e-commerce site based on the text descriptions of the

Art Unit: 3622

products provided at the site. A customer characterization is generated for any customer browsing the e-commerce site. The characterizations include an aggregation of derived product characterizations associated with products bought and/or browsed by that customer. A peer group is formed by clustering customers having similar customer characterizations. Recommendations are then made to a customer based on the processed characterization and peer group data (See abstract).

US Patent 6, 430, 539 to Lazarus discloses a predictive modeling of consumer financial behavior is provided by application of consumer transaction data to predictive models associated with merchant segments. Merchant segments are derived from consumer transaction data based on co-occurrences of merchants in sequences of transactions. Merchant vectors representing specific merchants are clustered to form merchant segments in a vector space as a function of the degree to which merchants co-occur more or less frequently than expected. Each merchant segment is trained using consumer transaction data in selected past time periods to predict spending in subsequent time periods for a consumer based on previous spending by the consumer. Consumer profiles describe summary statistics of consumer spending in and across merchant segments. Analysis of consumers associated with a segment identifies selected consumers according to predicted spending in the segment or other criteria, and the targeting of promotional offers specific to the segment and its merchants (See abstract).

US Patent 6,925,441B1 to Jones discloses a system and method of presenting targeted marketing to consumers, including businesses and associates, based upon the financial characteristics of the consumer, type offer being made and the channel of communication for

Art Unit: 3622

delivery of the offer. The consumer is characterized based upon financial, behavioral, and socioeconomic factors. The offer is characterized based upon the consumer and the potential for the consumer accepting the offer. The channel of communication for delivery of the offer is also characterized and combined with the consumer and consumer-offer characteristics to arrive at a net present value of the offer to be made. If the net present value is sufficient the offer is processed and presented to the consumer. If the net present value is not sufficient, the offer is revised to present a better value to the consumer (or discarded if the required offer value can not be created) thereby enhancing the chances that the consumer will accept the offer in question. In this way the system and method of the target marketing creates value in both releasing, and not releasing, specific offers (See abstract).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3622

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719.

Official Draft : 571-273-8300

08/03/05


**JDJ**

**Jean D. Janvier**

**Patent Examiner**

Art Unit 3622

**JEAN D. JANVIER  
PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read "Janvier Jean D", written over the printed name and title.